

Exhibit 21

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

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4 **BLACK LOVE RESISTS IN THE RUST, et al.,**
5 **individually and on behalf of a class of**
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.
11 -----

12 **ORAL EXAMINATION OF CHARLES MILLER**

13 **APPEARING REMOTELY FROM**

14 **ERIE COUNTY, NEW YORK**

15
16 June 2, 2023

17 9:32 a.m. - 4:49 p.m.

18 pursuant to notice
19
20

21 REPORTED BY:

22 Carrie A. Fisher, Notary Public

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

~~CHARLES MILLER~~

1 Q. Which ones told you that?

2 A. I don't recall, but I know I've heard it from
3 other officers. I know I've asked people
4 before. I couldn't tell you who it was. It
5 was a long time ago.

6 Q. So at this point, like as you're working now,
7 so not just during your time at the Housing
8 Unit, are you aware of any current policy in
9 effect at the BPD regarding how many tinted
10 windows tickets you can issue in a single
11 stop?

12 A. No.

13 Q. You're not aware of any written policy
14 governing this?

15 A. No. Like I said, I don't do a lot of V&T
16 anymore.

17 Q. Was there any point when you were at the
18 Housing Unit where your supervisors directed
19 you to limit the number of tinted windows
20 tickets you wrote to, you know, one ticket per
21 stop or two tickets per stop?

22 A. Not that I recall.

23 Q. So as far as you understood, during the

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~~CHARLES MILLER~~

1 A. Like I said, racial profiling is assuming
2 something about a race or disliking a race
3 because of the color of their skin and bias is
4 saying you're more superior to a race because
5 of X, Y, and Z, you know. I don't think that
6 those two are -- I mean, they're similar
7 but...

8 Q. Do you think it's possible that even if an
9 officer has probable cause for a traffic stop,
10 can that stop still be the result of racial
11 profiling on the part of the officer?

12 MR. SAHASRABUDHE: Objection to form.

13 A. If you have probable cause to make a traffic
14 stop, how can that be racial profiling?
15 It's -- you have probable cause to make it. I
16 mean, am I supposed to let a car go, you know,
17 like that's flying down a street just because
18 like I'm afraid of somebody accusing me of
19 racially profiling them and then they get into
20 a car accident or hit somebody?

21 Q. Well, I guess is it possible that you can have
22 probable cause for the traffic stop but that
23 the race of the driver is something that

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~~CHARLES MILLER~~

1 ensure that guys are not doing that. When I
2 show up to their calls, they're not doing
3 anything that's obviously intrusive, you know.

4 Again, this is kind of like the same
5 answer I gave you two other times. I show up
6 to their calls, show up to their traffic
7 stops. I kind of ensure that everything is
8 good. I have yet to have a citizen -- the
9 screen keeps going dark.

10 (Pause in proceedings for Mr. Sahasrabudhe and
11 the witness to reconnect to the
12 videoconference.)

13 BY MS. TEFFT:

14 Q. Back on the record after a brief break.

15 I want to direct you to Section 4.4 in
16 Exhibit 21 that we were just discussing.
17 That's at the bottom of page 2, specifically
18 subpart A that says "Warnings/Traffic Stop
19 Receipt."

20 A. Yes.

21 Q. So backing up a little bit to before you
22 became a lieutenant, you were still a patrol
23 officer. When you did traffic enforcement,

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~~CHARLES MILLER~~

1 did you ever issue Stop Receipts to drivers
2 that you didn't ticket?

3 A. Yes.

4 Q. How frequently?

5 A. Half the time.

6 Q. Half the time you said?

7 A. Yeah, roughly.

8 Q. When you issued Stop Receipts, did you record
9 the race of the motorist on those Stop
10 Receipts?

11 A. I think you have to. I don't remember. It's
12 been a minute since I've done it.

13 Q. You think you have to in the system where you
14 record them?

15 A. I think you have to report something.

16 Q. How did you decide whether or not to issue a
17 Stop Receipt in circumstances where you were
18 not writing someone a ticket?

19 MR. SAHASRABUDHE: Objection to form.

20 A. Again, generally how I always did things. If
21 they were polite, you know, like polite and
22 they understood why I stopped them, they
23 weren't argumentative, okay, well, I can give

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~~CHARLES MILLER~~

1 you -- I can use my discretion and give you a
2 courtesy. I would always explain to them when
3 I gave them the Stop Receipt like, "hey, you
4 know, this is not a ticket. There is no fine
5 attached to it. This is simply a receipt
6 explaining why I pulled you over."

7 Q. Do you recall ever being trained on issuing
8 Stop Receipts?

9 A. No, I don't.

10 Q. So Stop Receipts came about around 2020,
11 correct?

12 A. Yeah, around there.

13 Q. Do you remember being informed about what Stop
14 Receipts were around that time?

15 A. Yes, I do remember that.

16 Q. Who told you?

17 A. I think it came out in a departmental email.
18 I don't remember there being any specific
19 training, no. I think it was just --

20 Q. And do you?

21 A. -- a procedure update, and it gave you like
22 guidelines basically on how to do it.

23 Q. Okay.

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1 STATE OF NEW YORK)

2) ss.

3 COUNTY OF ERIE)

4
5 I, Carrie Fisher, Notary Public, in and for
6 the County of Erie, State of New York, do
7 hereby certify:

8 That the witness whose testimony appears
9 hereinbefore was, before the commencement of
10 their testimony, duly sworn to testify the
11 truth, the whole truth and nothing but the
12 truth; that said testimony was taken pursuant
13 to notice at the time and place as herein set
14 forth; that said testimony was taken down by
15 me and thereafter transcribed into
16 typewriting, and I hereby certify the
17 foregoing testimony is a full, true and
18 correct transcription of my shorthand notes so
19 taken.

20 I further certify that I am neither counsel
21 for nor related to any party to said action,
22 nor in anyway interested in the outcome
23 thereof.

IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed my seal this
16th day of June, 2023.

20
21 

Carrie A. Fisher
Notary Public - State of New York
No. 01FI6240227
Qualified in Erie County
My commission expires 5/02/27

DEPAOLO CROSBY REPORTING SERVICES, INC.

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1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

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4 **BLACK LOVE RESISTS IN THE RUST, ET AL.,**
5 **INDIVIDUALLY AND ON BEHALF OF A CLASS OF**
6 **ALL OTHERS SIMILARLY SITUATED,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., ET AL.,**

10 Defendants.
11 -----

12 **CONTINUED EXAMINATION BEFORE TRIAL**

13 **OF CHARLES MILLER**

14 **APPEARING REMOTELY FROM**

15 **ERIE COUNTY, NEW YORK**

16
17 November 8th, 2023

18 At 9:30 a.m.

19 Pursuant to notice
20
21

22 REPORTED BY:

23 Rebecca L. DiBello, RPR, CSR(NY)

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

—CHARLES MILLER—

1 A. Not to my knowledge, no.

2 Q. You testified earlier you had racial bias
3 training. Was there ever any -- did any
4 official ever provide any testing to ensure
5 that the principles around -- that were taught
6 in the racial bias training class were
7 implemented for you?

8 MS. FREELY: Objection to form.

9 A. What do you mean implemented? If you're
10 actually doing it on the street?

11 Q. That's right.

12 A. Yeah. I don't know how they would do that,
13 but no.

14 Q. And you previously testified in your
15 deposition that you have been rude at traffic
16 stops and told people to get the "F" out of
17 the car when they have been rude to you,
18 right?

19 MS. FREELY: Objection to form.

20 Q. I can pull up the testimony if you don't
21 recall that.

22 A. If people are argumentative, and there has
23 been situations where people have been

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—CHARLES MILLER—

1 argumentative with me.

2 Q. Right.

3 A. When I ask for simple things there have been
4 situations where they swear at me and I swear
5 back, yeah.

6 Q. Did anyone at BPD ever counsel you that
7 profane language was prohibited under the MOP?

8 A. I was told by a lieutenant a long time ago
9 like you got to -- people get under your skin.
10 It is what it is, but be professional.

11 Q. And was that -- when were you told that?

12 A. I was newer. 2014 maybe.

13 Q. Since 2014 has anyone informed you or
14 counseled you on that rule since then?

15 A. No.

16 Q. And in 2014 was that in the context of a
17 training or a conference?

18 A. It was a briefing.

19 Q. Briefing. So not in the context of a specific
20 complaint against you; is that right?

21 A. Yes.

22 Q. Has anyone at the BPD advised or counseled you
23 that as a police officer you're required to

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135 Delaware Avenue, Suite 301, Buffalo, New York 14202
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—CHARLES MILLER—

1 treat people with respect and dignity at all
2 times regardless of their conduct?

3 MS. FREELY: Objection to form.

4 A. Yes.

5 Q. In what context?

6 A. Taught that in the academy.

7 Q. Since the academy has anyone counseled you on
8 that rule?

9 A. No.

10 Q. And has anyone at the BPD ever provided
11 counsel or told you that to reduce racial bias
12 it's important that you treat people with
13 color with respect and dignity?

14 MS. FREELY: Objection to form.

15 A. In the implicit bias class, yeah, you're
16 taught that.

17 MS. FREELY: By my count we're at a
18 little over an hour ten.

19 MS. MALHOTRA: I'm just about to finish.

20 MS. FREELY: Okay.

21 Q. At the implicit bias class, but in the context
22 of a conference related to a disciplinary --
23 I'm sorry. In a conference related to a

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—CHARLES MILLER—

1 complaint has anyone ever counseled you that
2 it's important to treat people of color with
3 respect and dignity to reduce racial bias?

4 MS. FREELY: Objection to form.

5 A. In a conference? Not that I recall.

6 Q. Okay. And last question. After the Housing
7 Unit was eliminated did you receive any
8 training before joining the D District? And I
9 have one follow-up.

10 A. No.

11 Q. Okay. After you were -- after you were
12 promoted did you receive any additional
13 training with regard to carrying out your
14 duties as a lieutenant?

15 A. You receive a week of training in the Buffalo
16 Police headquarters, yes.

17 Q. And is racial bias covered in that training?

18 A. Yes, it is.

19 Q. And what was included in that training around
20 racial bias?

21 A. The implicit bias. It's the same implicit
22 bias training I already discussed and amongst
23 other trainings.

—DEPAOLO CROSBY REPORTING SERVICES, INC.—

1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Rebecca Lynne DiBello, CSR, RPR, Notary
5 Public, in and for the County of Erie, State of
6 New York, do hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken pursuant
12 to notice at the time and place as herein set
forth; that said testimony was taken down by me
and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
a full, true and correct transcription of my
shorthand notes so taken.

13 I further certify that I am neither counsel
14 for nor related to any party to said action,
15 nor in anyway interested in the outcome
thereof.

16 IN WITNESS WHEREOF, I have hereunto
17 subscribed my name and affixed my seal this
18 12th day of November, 2023.

19 
20 -----

21 Rebecca Lynne DiBello, CSR (NY)
22 Notary Public - State of New York
23 No. 01D14897420
Qualified in Erie County
My commission expires 5/11/2027

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